

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

2010 MAR -8 AM 10:18

PRO SE CIVIL COMPLAINT

Case No. 4:10cv3044
(the court will assign a number)

OFFICE OF THE CLERK

I. CASE CAPTION: Parties to this Civil Action:

Pursuant to Fed. R. Civ. P. 10(a), the names of **all** parties must appear in the case caption.
The court will **not** consider a claim against any defendant who is not listed in the caption.

A. Plaintiff(s) Name(s): Address(es): Telephone No. (only if
you are NOT a prisoner)

Evelyn YANIRA NOVOA

402-486-0399

P.O. BOX 6421

Lincoln NE 68506

-8321 Kork Ridge Rd apt. 304 Lincoln NE 68506

B. Defendant(s) Name(s):

Address(es) If known:

Nelnet Inc.

13 & "O" St.

Lincoln NE 68508

(Attach extra sheets if necessary.)

II. STATEMENT OF CLAIM(S)

State briefly the facts of your claim. Describe how each defendant is involved. You do not need to give legal arguments or cite cases or statutes. Use as much space as you need to state the facts. (Attach extra sheets if necessary.)

A. When did the events occur?

12-2008 during my entire training
then during the course of the 11 working
month

B. What happened?

Attached Reasons

II. STATEMENT OF CLAIM(S) (continued)

[illegible]

III. STATEMENT OF JURISDICTION

Check any of the following that apply to this case (you may check more than one):

☐ United States or a federal official or agency is a party

☐ Claim arises under the Constitution, laws or treaties of the United States

☒ Violation of civil rights

☒ Employment discrimination

☐ Diversity of Citizenship (a matter between citizens of different states in which the amount in controversy exceeds \$75,000)

☒ Other basis for jurisdiction in federal court (explain below)

- Retaliation

-

IV. STATEMENT OF VENUE

State briefly the connection between this case and Nebraska. For example, does a party reside or do business in Nebraska? Is a party incorporated in Nebraska? Did an injury occur in Nebraska? Did the claim arise in Nebraska?

- the business is located in Lincoln
Nebraska.

- yes the plaintiff is incorporated in Nebraska

- the claim arises in Nebraska

V. RELIEF

State briefly what you want the court to do for you.

I want the court to Review my
case and grant me what is or has
been denied to me.

VI. EXHAUSTION OF ADMINISTRATIVE PROCEDURES

Some claims, but not all, require exhaustion of administrative procedures. Answer the questions below to the best of your ability.

- A. Have the claims which you make in this civil action been presented through any type of administrative procedure within any state or federal government agency?

Yes yes No _____

- B. If you answered yes, state the date your claims were so presented, how they were presented, and the result of that procedure:

- the result is on the attachment
- after file a complain at Nebraska Equal
opportunity; and been the results confusing
I sent my complain to US Equal opportunity
District office in St. Louis MO.

- C. If you answered no, give the reasons, if applicable, why the claims made in this action have not been presented through administrative procedures:

VII. ARE YOU REQUESTING TRIAL BY A JURY OR BY A JUDGE? (check one):

JURY _____

JUDGE X

VIII. VERIFICATION

I (we) declare under penalty of perjury that the foregoing is true and correct.

Date(s) Executed:

Signature(s) of Plaintiff(s):

03-08-2010

E Yanira Novoa

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Note:

IF YOU CANNOT AFFORD TO PAY THE COURT'S FILING FEE UPON THE FILING OF YOUR COMPLAINT, THERE IS A SEPARATE FORM TO BE USED FOR APPLYING TO PROCEED IN FORMA PAUPERIS. Also, if there is more than one plaintiff in the case who wishes to proceed in forma pauperis, each such plaintiff must submit a separate application to proceed in forma pauperis.

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	NEB 1-08/09-12-39969-R 32E-2009-00334
Nebraska Equal Opportunity Commission and EEOC <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms., Mrs.) Ms. Evelyn Y. Novoa		HOME TELEPHONE (Include Area Code) 402.601.4910	
STREET ADDRESS 8321 Karl Ridge Road #304, Lincoln, NE, 68506		DEC 29 2008 REC'D NEOC	DATE OF BIRTH 3/5/1956
CITY, STATE AND ZIP CODE			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT HAND DELIVERED ANTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME NelNet, Inc.	NUMBER OF EMPLOYEES, MEMBERS B	TELEPHONE (Include Area Code) 402.458.2370	
STREET ADDRESS 121 S 13th St, Ste 301, Lincoln, NE, 68508		COUNTY Lancaster	
CITY, STATE AND ZIP CODE		TELEPHONE (Include Area Code)	
NAME		COUNTY	
STREET ADDRESS		COUNTY	
CITY, STATE AND ZIP CODE		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION 1 <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		EARLIEST LATEST 8/1/08 12/9/08 <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am a Hispanic female, born in El Salvador. I worked for the Respondent as a Customer Service Representative from 12-3-07 until I was terminated on 11-25-08. During that time I was discriminated against by my male supervisor and treated differently than non-Hispanics. I complained about this different treatment and the Respondent retaliated against me by terminating my employment.</p> <p>II. I allege this is unlawful discrimination on the bases of my sex, national origin and retaliation which is a violation of Sections 48-1104 and 48-1114(1) of the Nebraska Fair Employment Practice Act and Title VII of the Civil Rights Act of 1964, as amended, because:</p> <ol style="list-style-type: none"> Before August 2008 I received my performance evaluations from Dan Brandon, who gave me a 2.5 and Peter Gilliam who gave me a 3. Both were good scores. Since Matt Schafer became my supervisor in August 2008 I never received an evaluation. He began to harass me and purposely tried to spoil my performance. In August 2008 I was very ill and had to go to the ER. Schafer wrote me up for not requesting prior sick leave. In September 2008 I was so ill I asked Schafer for permission to go home. He told me that if I left, he would write me up. So on my lunch break, just to get some relief, I lay down under my desk. Schafer wrote me up. There were other bilingual Customer Service Reps, but I was the only one who was actually Hispanic. Numerous customer callers are Spanish speaking, yet Schafer gave me calls that were about 90% English speaking. Then the customers would complain that they couldn't understand me because of my accent. The more complaints, the more English calls Schafer gave me. Because of my accent he treated me as if I was dumb and didn't understand things, constantly saying loudly and slowly, "Do you understand?" Schafer did things to me to try and antagonize me into an argument. Due to a hearing problem, I asked Schafer to move me to a quieter location. Instead he moved another person. When things like this would occur and I would confront Schafer about them, then he would say I was being insubordinate and would tell Angie Varela, the Department Manager. She would then warn me that if I complain, get mad, or even talk to co-workers about things, I would be fired. I tried to tell her on several occasions how Schafer was harassing me due to my national origin and my accent, and how he treated females in general poorly. 			

Continued on next page

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Novoa vs. NelNet

5. About 11-17-08 Varela told Schafer to move me to the end of the row where it is quieter. Instead, he put me right in the middle of the row where it is the noisiest. He lied and said it was the only available computer. When I confronted him about it he told Varela I was again being insubordinate.
6. On 11-25-08 Varela fired me for being insubordinate. I tried to explain that it was Schafer who was always harassing me and trying to make me mad to get me fired. She warned me that if I talk to anyone about my firing, there would be serious consequences.
7. On 12-9-08 I received a letter from the Respondent accusing me of attempting to contact Respondent customers for the purpose of obtaining confidential information and interfering with business. They threatened me with legal action if I continue and/or do not immediately return customer lists. I have no knowledge of any customer lists and have made no attempts at contacting any customer. I have friends who still work for the Respondent and have only spoken with them by phone as friends.



I declare under penalty of perjury that the foregoing is true and correct.

DO NOT WRITE IN THIS SPACE

Date

Charging Party (Signature)

NOTARY - (When necessary for State and Local Requirements)

[Signature]
 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

[Signature]
 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
 (Month, Day, and Year)

Dec. 29, 2008

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Evelyn Y. Novoa
8321 Karl Ridge Rd, #304
Lincoln, NE 68506

From: St. Louis District Office
Robert A. Young Bldg
1222 Spruce St, Rm 8.100
Saint Louis, MO 63103

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

32E-2009-00334

Joseph J. Wilson,
Investigator

(314) 539-7816

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

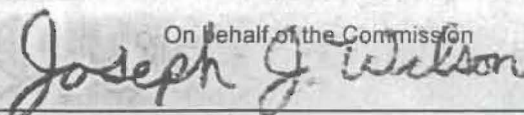
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On Behalf of the Commission



February 11, 2010

Enclosures(s)

James R. Neely, Jr.,
Director

(Date Mailed)

cc:

Kari Kelly
Legal Counsel
NELNET, INC
3015 Parker Rd, Ste 400
Aurora, CO 80014

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02 -- not 12/1/02** -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice, if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need help in finding a lawyer, you may call (314) 539-7911 in St. Louis, (913) 551-6614 in Kansas City, or (405) 231-5349 in Oklahoma City. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.